

ESTTA Tracking number: **ESTTA51659**

Filing date: **11/02/2005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	TOYOTA KABUSHIKI KAISHA, T/A TOYOTA MOTOR CORPORATION
Granted to Date of previous extension	03/05/2006
Address	1, Toyota-cho Toyota-shi Aichi-ken, 471-8571 JAPAN

Attorney information	DAVID J. KERA OBLON, SPIVAK, MCCLELLAND MAIER NEUSTADT 1940 DUKE STREET ALEXANDRIA, VA 22314 UNITED STATES tmdocket@oblon.com, dkera@oblon.com Phone:703-413-3000
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Applicant Information

Application No	78487520	Publication date	09/06/2005
Opposition Filing Date	11/02/2005	Opposition Period Ends	03/05/2006
Applicant	Seyon Music, LLC 3218 Bilbrey Drive		

	Murfreesboro, TN 37128 UNITED STATES
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Goods/Services Affected by Opposition

Class 009. First Use: 20040801First Use In Commerce: 20040801 All goods and seviles in the class are opposed, namely: Prerecorded compact discs, DVD's, and videotapes all featuring music

Attachments	213-278544us-notice.pdf (5 pages)
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Signature	/david.j. kera/ojb
Name	DAVID J. KERA
Date	11/02/2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Re: Application Serial No.: 78/487,520

Applicant: Scyon Music, LLC

Trademark: SCYON MUSIC

Filing Date: September 22, 2004

Published in the Official Gazette
of September 6, 2005, Volume 1298,
No. 1, at Page TM 640.

Toyota Jidosha Kabushiki Kaisha,)
t/a Toyota Motor Corporation,)
)
Opposer,)
)
v.)
)
Scyon Music, LLC,)
)
Applicant)

Opposition No.:
U.S. Appln. Serial No.: 78/487,520
Mark: SCYON MUSIC

NOTICE OF OPPOSITION

Toyota Jidosha Kabushiki Kaisha, t/a Toyota Motor Corporation, a company incorporated under the laws of Japan, located at 1, Toyota-cho, Toyota-shi, Aichi-ken, Japan, believes it will be damaged by the registration of the mark identified above and hereby opposes the registration of the mark. As grounds of opposition Toyota (Opposer) alleges:

1. Scyon Music, LLC is a limited liability company organized under the laws of the State of Tennessee and is located at 3218 Bilbrey Drive, Murfreesboro, Tennessee 37128 (Applicant).

2. In Application Serial No. 78/487,520, Applicant, Scyon Music, LLC, states that it comprises Emmett J. Leopardi, Warren Salvador, and Thomas Michael Helton.

3. On the specimens of record in the application, Jay Leopardi is identified as Executive Producer. Opposer therefore believes that Emmett J. Leopardi is the same person as Jay Leopardi.

4. On information and belief, Opposer alleges that Jay Leopardi was formerly the Finance Manager at Neil-Sandler Toyota Scion, an automobile dealership selling Opposer's TOYOTA and SCION vehicles, located in Murfreesboro, Tennessee.

5. On information and belief, Opposer alleges that Jay Leopardi, as a result of his employment at Neil-Sandler Toyota Scion, had actual knowledge of the use of Opposer's three trademarks, as identified below in this Notice of Opposition, prior to the claimed date of first use of S SCYON MUSIC and prior to the filing date of Application Serial No. 78/487,520.

6. Applicant filed Application Serial No. 78/487,520 to register S SCYON MUSIC ("MUSIC" has been disclaimed) for prerecorded compact discs, DVD's, and videotapes all featuring music on September 22, 2004 with a claim of first use of the mark on August 1, 2004 and a claim of first use of the mark in commerce on August 1, 2004.

7. Opposer is the Registrant of the following registrations:

A. - SCION Registration No. 2,795,479, issued on December 16, 2003,
for motor cars and structural parts thereof

B. - S SCION & Design Registration No. 2,787,231, issued November
25, 2003, for motor cars

C. - SCION SOUND PROCESSING Registration No. 2,845,698, issued
May 25, 2004, for automobile audio units, namely, combination radios, compact disc
players and tape players with digital sound enhancement capability.

8. Opposer's three trademarks have been continuously used in the United
States since June 9, 2003 for the goods identified in the three registrations.

9. S SCYON MUSIC is confusingly similar in appearance and sound to each
of Opposer's three registered trademarks, SCION, S SCION & Design, and SCION
SOUND PROCESSING. The distinctive word in S SCYON MUSIC is SCYON, which
is virtually identical in appearance and particularly in sound to the principal word SCION
in Opposer's trademarks S SCION & Design and SCION SOUND PROCESSING and to
the word which is the entirety of the trademark SCION.

10. In addition, S SCYON MUSIC is very closely related in connotation to
SCION SOUND PROCESSING.

11. The prerecorded compact discs identified in the opposed application are
complementary products to the audio units identified in Opposer's SCION SOUND
PROCESSING registration and sold under Opposer's SCION SOUND PROCESSING
trademark.

12. Applicant's compact discs, DVD's, and videotapes are entertainment
products which can be sold to the same ultimate purchasers, and sometimes through the

same channels of trade, as are motor cars and automobile audio units, and Applicant's compact discs can be played in motor cars, for which reasons Applicant's compact discs, DVD's, and videotapes are closely related to Opposer's motor cars and automobile audio units.

13. Opposer's dates of use for its three pleaded marks, filing dates for its three pleaded registrations, and registration dates for its three pleaded registrations are all prior to the earliest date of use, August 1, 2004, which is asserted by Applicant and prior to the filing of the opposed application on September 22, 2004.

14. The trademark S SCYON MUSIC, if registered and used, is likely to cause confusion, mistake, or deception of purchasers because of the confusing similarity of S SCYON MUSIC to each of Opposer's three pleaded trademarks and the close relationship of the goods identified in the opposed application to the goods on which Opposer has been and is using its three pleaded marks and for which the three pleaded marks are registered.

15. The registration of S SCYON MUSIC would be in violation of 15 U.S.C. § 1052(d) and in derogation of Opposer's superior rights in its trademarks SCION, S SCION & Design and SCION SOUND PROCESSING.

16. On information and belief, Opposer alleges that Applicant has been using a SCION xB automobile, manufactured by Opposer, as a vehicle to advertise Applicant's products sold under the trademark S SCYON MUSIC.

17. Applicant, by displaying the S SCYON MUSIC mark on SCION vehicles manufactured by Opposer, has deliberately fostered the false impression that Opposer has licensed Applicant to use S SCYON MUSIC, or that Applicant is somehow affiliated

with Opposer, or that Opposer has in some other manner authorized or granted permission to Applicant to use the trademark S SCYON MUSIC.

18. Applicant, by displaying its mark S SCYON MUSIC on SCION vehicles manufactured by Opposer, has engaged in deceptive conduct and has made S SCYON MUSIC a deceptive mark for which registration is proscribed by 15 U.S.C. § 1052(a).

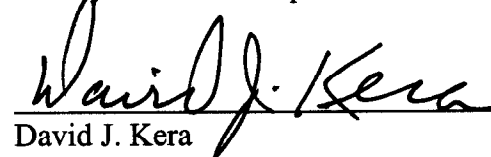
19. Opposer would be damaged by the use and registration of Applicant's deceptive trademark.

WHEREFORE, Opposer requests that this opposition be sustained and that registration be refused on Application Serial No. 78/487,520.

Respectfully submitted,

Toyota Jidosha Kabushiki Kaisha,
t/a Toyota Motor Corporation

By:



David J. Kera
Jordan S. Weinstein
Oblon, Spivak, McClelland,
Maier, and Neustadt, P.C.
1940 Duke Street
Alexandria, Virginia 22314
(703) 413-3000
fax: (703) 413-2220
email: tmdocket@oblon.com

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